

1 Hicks' acquisition of WRBR?

2 A Was I ever aware or --

3 Q Contemporaneous with the letter.

4 A No.

5 Q That you became aware at some point later on?

6 A At some point I saw it, yes. Saw Alan's response.
7 I don't know when.

8 Q In 1994 or sometime thereafter?

9 A I really -- I mean, it may have been way after. I
10 don't think I saw it until a couple of years after, really.

11 Q Alright. Could you please turn to Mass Media
12 Exhibit 61? Are you the "Bob" to whom this is addressed?

13 A I'm sure I am.

14 Q Is it your recollection that you received the note
15 in question and the attached draft from Mr. Brown?

16 A Yes, I believe I did. I mean, I'm sure I did.

17 Q Now, directing your attention to the second page
18 of the exhibit, paragraph 2, was there a prior -- was there
19 an understanding before March 30, 1994 regarding a put
20 provision?

21 A No. This is the very first time that I heard or
22 seen anything about this. In fact, it was a little bit
23 annoying, to be honest with you, to get this on the 30th or
24 the 31st, the day before the closing was supposed to take
25 place.

1 Q Now, did you and Mr. Dille discuss the put
2 provision that appears in this document?

3 A Yes.

4 Q Can you relate to us the --

5 A Excuse me. No. When I discussed, I mean this was
6 -- this came to me, and I then would have made a copy and
7 discussed the whole thing with John. And with respect to
8 that provision, I mean, he would have seen it for himself
9 and saw how it related and what it was regarding and so on.
10 And then he would have to help his children make a decision.

11 Q My question is, I guess, a little bit different
12 from that. It's whether you and Mr. Dille spoke about this
13 provision.

14 A Yeah, I guess we spoke about it. I mean, I don't
15 remember -- we spoke about the whole letter and that was one
16 of the things in the letter. So, I'm sure we spoke of that.

17 Q Alright. Well, maybe --

18 A I don't remember any specific conversation on it
19 other than it was a little bit annoying that this came.

20 Q By this, you mean the letter itself, as opposed to
21 any particular provision, or was there one or more
22 provisions that annoyed you?

23 A A little bit annoyed that the whole letter came on
24 the eve of the close, but that's minor. I mean, that's --
25 what I'm saying is it was something that had to be contended

1 with right at the end and right before a closing --

2 Q Okay --

3 A -- was taking place.

4 Q And who, on behalf of Pathfinder, contended with
5 this, or on behalf of the Dille children? Who, on behalf of
6 the Dille children contended with this?

7 A John and I discussed it -- with John. I discussed
8 the whole letter with John. I mentioned that.

9 Q Then, did you in turn get back to Mr. Brown?

10 A I don't know if I got back with Brown on this or
11 if John did, or if I got back to Dave or John did. I don't
12 remember who -- I really don't remember who was discussed.
13 There obviously was a side agreement that was finally agreed
14 to and signed by the minority members, but -- or by all
15 members. I'm sorry. But what conversation took place with
16 whom, I don't recall that exactly, other than John and I
17 discussed the whole letter.

18 Q Now, with respect to the put provision, what is it
19 that you understand that Mr. Hicks is asking for here?

20 A Well, my understanding is that any time after
21 three years, it was -- he could basically -- he could
22 require the other members to purchase his share of the
23 company for a minimum of \$100,000.

24 Q Now, as things stood at this point, the operating
25 agreement gave the Dille children the right that, at any

1 time, they could buy out Mr. Hicks. Right?

2 A Correct.

3 Q So, in a way, this is Mr. Hicks' way of saying, "I
4 don't want that decision to be left solely --

5 A He made -- with one addition. It gave him the
6 right to buy out Mr. Hicks with -- providing FCC approval.

7 Q Understood. We'll accept that as a given.

8 A It was significant. Okay?

9 Q Very good. But in terms of this provision, now
10 what we have here is Mr. Hicks saying, "When I want to get
11 out after three years, I have the chance to get out. I just
12 don't have to wait for you, Dille children, to make that
13 decision."

14 A That's correct.

15 Q And that's all he's saying here. Right?

16 A That's --

17 Q In terms of the put provision?

18 A Yes, yeah.

19 Q And as far as what he was going to get for his
20 interests, that wasn't going to be any different than what
21 was already provided for in the operating agreement.
22 Correct?

23 A I'm sorry. What do you mean?

24 Q Okay. The operating agreement -- let's make sure
25 we understand each other here. The operating agreement had

1 a formula for determining what the price --

2 A That was the call provision.

3 Q The call provision.

4 A Right.

5 Q Had a formula for determining what the price of
6 the shares would be that the Dille children would have to
7 pay in order to buy Mr. Hicks out.

8 A That's correct.

9 Q And would I be correct that the put provision here
10 calls for the same price, if you will, to be placed on the
11 stock as if the call provision had been exercised?

12 A Yes.

13 Q Now, did you or Mr. Dille discuss paragraph 3 at
14 all?

15 A Yes, we did.

16 Q And what was the nature of your discussion, if you
17 can remember?

18 A Well, John had to -- I mean, he had to look at
19 this and see how it was going to affect his children's
20 interests. And so, as we discussed this indemnification of
21 the letter of credit, we determined that it really wasn't
22 very -- there wasn't really a lot to it. And let me explain
23 why.

24 The letter of credit that Dave had put up as
25 escrow deposit was \$25,500. This basically indemnified

1 Dave. He wanted indemnification for the \$25,500 in the
2 event it had -- he lost the letter of credit and Booth had
3 to collect on the letter of credit. Well, the only real
4 exposure, not the only exposure, but the significant amount
5 of exposure in this Escrow Agreement was that if the thing
6 did not close because if it would not have closed, Booth
7 would have exercised the letter of credit as their escrow
8 deposit.

9 But on March 30 and then signed on March 31, the
10 chances of it not closing were almost nil. So, really, John
11 didn't think there was -- and there wasn't very much
12 exposure here, therefore, he -- we decided there really
13 wasn't a significant problem with Number 2.

14 Q Now, that's certainly the case with respect to the
15 letter of credit. What about the guaranty that's referenced
16 on the next page?

17 A Well, I know this -- I remember quite a bit of
18 discussion on this one, too. And this is a little complex
19 so -- you got to understand a little bit about the payment
20 schedule, having to do with -- this was seller-financed.
21 Hicks Broadcasting's first payment was in the seventh month.
22 There were no payments for the first six. There were six
23 payments of five, and then so on. It called for an
24 escalating schedule. In the 48th month, there was a
25 \$240,000 balloon payment due.

1 So, this calls -- basically, this allows for a
2 disproportional share of the guaranty to be paid. We saw
3 the guaranty a little bit ago, where it showed the amounts
4 by member as to how much was going to be -- they would have
5 to contribute to the guaranty.

6 Q Right. Let's make sure --

7 A Do you recall that?

8 Q Let's make sure we're on the same page with that.
9 The guaranty, as I recall was for the total amount of
10 \$250,000.

11 A Total amount, \$250,000. And then it broke it down
12 by member as to which member -- how much it was each member
13 had to go in for. Okay. So, the only way that this -- that
14 the contributions of the members would be less than their
15 proportional share to their membership or even less than
16 what it said in the guaranty, their amount. The only way it
17 would be less or out of whack would be if the amount of the
18 guaranty was under \$250,000.

19 With the balloon payment being \$240,000 at the
20 end, this clause really didn't mean that much. The only
21 exposure really was so that in that \$10,000, between 240 and
22 250, because had they -- let's say they hadn't made the
23 balloon payment for 240, for example. Then yes, the
24 children would have gone first, but John -- Dave would have
25 had to pick up the rest. And the only thing he'd be -- not

1 putting in is his share -- would be \$5,100.

2 So, I mean the exposure here was almost
3 meaningless. And this clause was almost -- it was a nothing
4 clause.

5 Q Did you have any conversations with Mr. Brown or
6 Mr. Hicks about this?

7 A No, that discussion took place with John. In
8 fact, it's not the kind of thing that we would have actually
9 brought to their attention, sorry to say.

10 MR. SHOOK: Alright. Your Honor, the Bureau moves
11 Exhibit 61 in.

12 THE COURT: Any objections?

13 MR. HALL: No objection, Your Honor.

14 (The document referred to was
15 marked for identification as
16 Mass Media Bureau Exhibit 61,
17 and was received in evidence.)

18 THE COURT: Under this guaranty -- I may be
19 mistaken. What if a payment was missed, then I assume Booth
20 could call in the whole amount, couldn't he?

21 THE WITNESS: They could have called the whole
22 station in and everybody would have shared equally in the
23 loss.

24 THE COURT: But what would this guaranty mean in
25 terms of Hicks --

1 THE WITNESS: They also could have -- okay, let's
2 say that they missed a payment early on; Booth not only
3 would have exercised their guaranty, in which case it would
4 have -- each member would have put in the exact amount that
5 was in the guaranty, they'd also taken the station back.

6 THE COURT: Well, what does the provision mean
7 then; each of you first agrees to first pay on the guaranty
8 the full amount of your obligation? Before I am required to
9 pay any amount of the guaranty -- now wasn't each of the
10 parties, jointly and severally, liable?

11 THE WITNESS: I believe they were only -- only
12 liable up to a specific amount. And that was specified in
13 the guaranty there. Like I think Dave's was \$127,000 and
14 the other ones, around \$43,000. And that was their amount
15 of their individual guaranties.

16 So, if the station -- let's say they missed the
17 second payment and they still owed \$655,000, then Booth
18 would have exercised their guaranty. Each member would have
19 had to contribute their portion of the guaranty, and then
20 they'd have shared in the rest of the loss of the station.
21 Booth would have taken it back.

22 THE COURT: You're saying the guaranty was only
23 proportionate to the amount of money, the percentage
24 interest?

25 THE WITNESS: Yes.

1 THE COURT: What exhibit is the guaranty at?

2 THE WITNESS: I don't recall. I remember
3 seeing --

4 THE COURT: Well, I'm asking counsel.

5 MR. SHOOK: Your Honor, I believe it's in our
6 Exhibit 3, and let me see if I can find the page. It's page
7 66.

8 THE WITNESS: What page did you say?

9 MR. SHOOK: Exhibit 3, page 66.

10 THE COURT: Now, am I wrong that, under this
11 agreement, the creditor could have demanded all of the money
12 from any of these individuals?

13 THE WITNESS: That is not the way I understood it.
14 I understood it that they were limited to those amounts.
15 And that's the way I know John and I discussed it. They
16 were limited to each of those amounts specified under
17 their -- by their name.

18 THE COURT: But what happened if Mr. Hicks
19 defaulted? Could they get all the rest of the money from
20 all the remaining three?

21 THE WITNESS: That is not the way I understood it.

22 THE COURT: I mean, all that Booth could do was
23 just get the station back and take a loss. Is that what
24 you're saying?

25 THE WITNESS: Right. That was my understanding.

1 THE COURT: Was it in a separate agreement later
2 on between the stockholders which indemnify Mr. Hicks?

3 THE WITNESS: Well, this is the side letter that
4 we're referring to now, I believe. Is it?

5 MR. SHOOK: Yes, sir.

6 THE COURT: Okay. Go ahead.

7 THE WITNESS: I mean, it's the one -- it's that
8 paragraph on page 2.

9 MR. SHOOK: Your Honor, I'm afraid this is just an
10 ambiguity that we'll have to work our way through.

11 THE COURT: Alright.

12 MR. SHOOK: In any event, we have offered Exhibit
13 61. I don't remember whether or not Your Honor ruled.

14 THE COURT: Which one was that?

15 MR. SHOOK: Exhibit 61.

16 THE COURT: That's been received.

17 BY MR. SHOOK:

18 Q Okay. Mr. Watson, could you turn to Exhibit 62,
19 please?

20 A Okay.

21 Q Now, did you receive the fax cover sheet and
22 accompanying material, as indicated by page 1?

23 A I presume I did. I'm sure I did, yes.

24 Q Did you review the material in the fax?

25 A I'm sure I did. I think -- yes.

1 Q And this review was on behalf of the Dille
2 children?

3 A Yes. And like I said, they redrafted it, so they
4 probably wanted to make sure it reflected some changes that
5 had been sent to Sam to incorporate in the draft.

6 Q And at the risk of beating this dead horse again,
7 this review was part of just a normal part of your work day?

8 A Yes.

9 MR. SHOOK: Your Honor, the Bureau would move
10 Exhibit 62 in.

11 THE COURT: Any objection?

12 MR. HALL: No objections from Hicks, Your Honor.

13 MR. GUZMAN: No, Your Honor.

14 (The document referred to was
15 marked for identification as
16 Mass Media Bureau Exhibit 62,
17 and was received in evidence.)

18 THE COURT: So, the way I read this call
19 provision, the children, or any of them, could at any time
20 exercise an option to obtain the 51 percent that Mr. Hicks
21 held, any time after the closing?

22 THE WITNESS: Yes.

23 THE COURT: Also, on the consent to transfer, he
24 could not offer to sell his interests in the company through
25 the first three years of the agreement. Is that -- to any

1 third party, I assume. I'm talking about here.

2 THE WITNESS: That's right. It's this call
3 provision right here too, that, just for clarification, that
4 came from another agreement with another company. It was
5 just the same. It was picked up from one and put in here.

6 THE COURT: Which also provided that the
7 minority --

8 THE WITNESS: Well, in that case it wasn't a
9 minority. It was a 50/50 ownership. But it did have this -
10 - almost the same language.

11 BY MR. SHOOK:

12 Q I'm not sure if I asked you this before when you
13 had mentioned that -- do you remember the time period in
14 which that call provision came to your attention?

15 A That other call provision?

16 Q The other one, right.

17 A Well, it was a -- it was an agreement that
18 Pathfinder had entered into with another shareholder in
19 December, 1992.

20 Q So, the provision was contained in a document --

21 A In a different document --

22 Q -- drafted in December of 1992?

23 A Signed in December, 1992.

24 THE COURT: You would need to obtain permission of
25 the Commission, I assume, in that case in order to go

1 through with the agreement, would you?

2 THE WITNESS: Yes. In that other one?

3 THE COURT: Yes.

4 THE WITNESS: Yes, you did. You do need --

5 THE COURT: Even though you had existing stock
6 holds each owning 50 percent?

7 THE WITNESS: Yeah, because -- because one -- my
8 understanding is because you then were going to -- I mean,
9 at 50/50 you're okay, but once you got 51 percent, that
10 required FCC approval.

11 MR. SHOOK: It's when you go to negative control
12 to positive control.

13 THE COURT: Go ahead, Mr. Shook.

14 BY MR. SHOOK:

15 Q Now, Mr. Watson, I want to place before you now
16 our Volume 3.

17 THE COURT: Let me ask you one question about this
18 call provision. Did you discuss this call provision with
19 Mr. Hicks? This provision giving the Dille children an
20 option to purchase at any time his interest, subject to FCC
21 approval?

22 THE WITNESS: I -- yeah. I don't recall if I
23 discussed it or if it was sent to them as a proposal or not,
24 Your Honor. It may have been sent to his attorney, Rick
25 Brown, also.

1 THE COURT: As far as you know, did you have any
2 opposition to -- objection to this provision?

3 THE WITNESS: I don't know. I mean, they --

4 THE COURT: Did either Mr. Brown or Mr. Hicks
5 register any objection with you to this provision, whereby
6 he would terminate his interest or potentially terminate his
7 interests at any time after the grant?

8 THE WITNESS: They gave no objection to me, no.
9 There might have been discussions among others, but not with
10 me on that.

11 THE COURT: Alright. Go ahead, Mr. Shook.

12 BY MR. SHOOK:

13 Q Mr. Watson, I'm going to refer you to some
14 material that, by and large, has already been introduced
15 into evidence. And it's just a couple of things that I want
16 to clean up relative to the -- the first thing I'd like you
17 to turn to is Exhibit 94, page 2.

18 Now, there's some initials that appear at the
19 bottom of the page.

20 A Yes.

21 Q Can you tell me whose initials they are?

22 A There's my squiggle there, and the other initial
23 is the -- starts off with a J. I'm sorry. It's a T. It's
24 the initials of the controller of Pathfinder, a gentleman
25 that works for me.

1 Q And that person's name is?

2 A Anthony Etelman.

3 Q Okay. Now, on August 31, 1992, which is the date
4 of this document, why is it that you're initialing it?

5 A Well, at that time the -- in accordance with the
6 JSA, you go through the computation in the agreement on
7 September 1st of each year. And that determines how
8 revenues from the JSA, revenues and expenses from the JSA
9 are going to be split for the coming 12 months. So, on
10 September 1st, 19 --

11 Q Maybe we should back up a little.

12 A Excuse me. I may be wrong here.

13 Q Let's backtrack a little bit. First of all, you
14 recognize what this document is. Correct?

15 A Yes, I do.

16 Q And what is it?

17 A But I may be wrong because the date doesn't make
18 sense to me. Pardon?

19 Q What is this document?

20 A It's a -- it's a personal change report that --
21 which basically is to provide information regarding anyone's
22 change -- any employee that's either on our payroll or
23 administered on Pathfinder's payroll. Any change in status,
24 whether they go from full-time to part-time or if they go
25 from -- change positions or whatever. It's just a -- it's a

1 way to get the change accomplished in the records.

2 Q Alright. And so, you're initialing this because?

3 A Well, I initial all -- all of these that come
4 across my desk, for various reasons. First of all, I don't
5 single out and say, "I don't want to see these, but I want
6 to see these." I just want to see them all so that way it
7 makes them easy. That way I don't miss any.

8 Secondly, I want to check -- if it's a new
9 position, I like to know about -- just know about generally,
10 new positions. My controller and I want to make sure that
11 they're being charged to the right account. You'll notice
12 the account expense allocation number's on there. Just the
13 general knowledge, just kind of a general check.

14 Q So, the account --

15 A It's not any -- nothing to do with the proving
16 this change, so to speak. It's just an initial -- it's
17 letting the payroll clerk know I've seen it, and therefore
18 she can file it.

19 Q Now, when you made reference to looking at the
20 payroll expense allocation, that's a check to see whether
21 it's appropriate?

22 A Yeah, yeah. Not "appropriate," but if it's
23 reasonable. Does it make sense based upon -- for example,
24 and we'll get into this maybe at a later time, but we help
25 Hicks put together their budget. And we know therefore to

1 have knowledge if they're going to create a new position or
2 if they're going to -- doing some transfers or something
3 like that. And therefore, if we want to make sure that
4 people are accounted for the way Steve Kline and Dave Hicks
5 wants them to be. And therefore, we look at these things to
6 make sure that they're proper.

7 Q Turning to page 3, do you recognize the initials
8 at the bottom of the page there?

9 A Yes, I do.

10 Q Whose initials are they?

11 A One is again, Tony Etelman's, and the other one --
12 the CS is Cher Stouffer.

13 Q And why is that they are initialing this personnel
14 change report?

15 A Well, Tony is for the same reason I gave before.
16 Tony's was on the previous one, and it's on this one. He
17 would make sure that the account distribution is the way
18 that it should -- the way he knows the parties want it to
19 be, the general manager.

20 Now, what I cannot understand is why this isn't
21 approved by the general manager because almost all of them
22 are, without exception. It's almost -- it's very possible
23 that he got a call telling him -- well now, I happen to know
24 what this one is, also. But --

25 Q Well, why don't you tell us that first?

1 A This one -- okay. Going back to my previous
2 explanation, on September 1 of each year, in accordance with
3 the JSA, I went through and made a computation. And it
4 basically -- the result of that computation was how revenues
5 and expenses of the JSA were going to be split for the
6 coming 12 months. On September 1 -- as you'll notice this
7 is effective September 1 -- he was then split 60/40. And
8 that's because of the result of the formula. That would
9 be -- I'm assuming that, but I'm pretty sure that's correct
10 because it happens to be the right date.

11 September 1, 1996 was the first time that the
12 split was something other than 50/50. The formula had
13 yielded approximately 50/50 in each -- on each September 1
14 prior to that date.

15 Q Now, do you happen to recognize the handwriting of
16 the person who wrote this down? The 60/40 information?

17 A No, not really. I would be guessing.

18 Q Now, did you know on or about September of 1996
19 that individual salespersons at WBYT or WRBR were
20 specifically directed to sell only one station and not both?

21 A I knew at some point. I think it was before that.
22 September what? What did you say?

23 Q Well, I'm looking at the date of this document.
24 And it's in the September-October 1996 period. And what I'm
25 asking is at that point in time, did you know that

1 individual salespeople at WBYT and WRBR are dedicated, if
2 you will, to sell only one of the stations and not both of
3 them?

4 A Yes. Prior to that time, they were split
5 sometime.

6 Q Now, with that being the case, why do you continue
7 to have this allocation that appears on the document?

8 A Well, first of all, the JOA called for that
9 allocation. I mean, regardless -- what you did is if the
10 allocation was split up based on the total revenue of both
11 stations regardless of how you got to that pie, regardless
12 of whether you sold them in combined or whether you sold
13 them individually, the Joint Sales Agreement defined however
14 you were going to split that pie.

15 And in accordance with the formula on September 1,
16 the agreement was still in place. That computation had to
17 be done. And also, the agreement did not actually end I
18 don't believe -- it was amended in -- that particular
19 agreement ended in December 1996. So, that was -- I mean,
20 that's why it was done.

21 THE COURT: You said the agreement ended in 1996.
22 So, why would that affect something in 1997?

23 THE WITNESS: No, '97. I'm sorry I'm
24 misunderstanding.

25 MR. CRISPIN: It was '96, Your Honor.

1 THE COURT: What is '96? Did you ask him
2 something about '97?

3 MR. SHOOK: What I was trying to establish was why
4 it was we had a 60/40 split for this individual when --

5 THE COURT: It's when --

6 MR. SHOOK: -- as of September and October of
7 1996.

8 THE COURT: Alright. I missed that.

9 MR. SHOOK: And I believe the witness explained.

10 THE COURT: Yes, I understand.

11 BY MR. SHOOK:

12 Q Now, Mr. Watson, on page 4 at the bottom, the
13 initials are Mr. Etelman's and yours. Basically, for the
14 same reasons we talked about.

15 A Correct.

16 MR. SHOOK: Your Honor, perhaps there's a way of
17 shortcutting some of this because, essentially, what I'd be
18 doing for much of the next -- well, perhaps hour, would
19 simply be having him identify initials which I believe to be
20 the persons that he's --

21 THE COURT: Well, maybe we can get a stipulation
22 and move on.

23 MR. SHOOK: Could we do that?

24 MR. JOHNSON: Give us the exhibit number, Jim, and
25 we'll do that.

1 MR. SHOOK: Okay. I mean, I can do that when
2 we're finished.

3 MR. GUZMAN: We'd like to understand for what
4 purpose and why.

5 MR. SHOOK: Just to see who's involved in looking
6 at things.

7 THE WITNESS: Well, keep in mind they are being
8 put on a payroll administered by Pathfinder. I mean, so we
9 would want to look at them to make sure they're being
10 charged properly. Wouldn't want someone working for RBR
11 being put into WLTA, for example, or WBYT.

12 THE COURT: Sometimes you referred to the JSA and
13 sometimes JOA.

14 THE WITNESS: Yeah. Sorry.

15 THE COURT: We're talking about the Joint Sales
16 Agreement, aren't we?

17 THE WITNESS: Yes, Your Honor. I use the term
18 "synonymous" only because the Joint Sales Agreement along
19 with a couple other documents including the -- my memo to
20 Alan Campbell has evolved in kind of into a JOA in certain -
21 - in some areas.

22 THE COURT: But there is no separate document?

23 THE WITNESS: No. No, there is not.

24 BY MR. SHOOK:

25 Q Just a point of clarification and I'm sorry,

1 listening to something and not hearing what you were saying.
2 But when you say "JOA," what you're referring to is short
3 for "Joint Operating Agreement" which, in reality, is the
4 same thing as the Joint Sales Agreement. Correct?

5 A No. I guess when I was referring to the Joint
6 Operating Agreement, I've kind of been using it synonymously
7 with the Joint Sales Agreement. However, the Joint Sales
8 Agreement changed a little bit. There are some -- with the
9 approval of Steve Kline -- with counsel's approval that
10 Steve Kline could be the general manager of both stations,
11 we also had determined on our own that there's some other
12 positions that we can split, providing -- providing each
13 owner's still in charge of programming and so on and so
14 forth.

15 And I use the reception again because that's one
16 that's outside the Joint Sales Agreement that we do split
17 because they're co-located now. We have the same
18 receptionist and it saves money for both stations. So --

19 Q I think what we wanted to make sure was that when
20 you were referring to JOA, that there was not a separate
21 signed document --

22 A No --

23 Q -- some place between Pathfinder and --

24 A No, there's no separate --

25 Q -- Hicks that we were missing --

1 A There's no separate signed document, and that's
2 what I was explaining to Your Honor.

3 Q Could you please turn to Mass Media Exhibit 63?
4 It's in the second volume of exhibits.

5 A Okay.

6 Q Now, that's your signature on the bottom of page
7 1?

8 A Yes.

9 Q And if you would turn to page 4, is that also your
10 signature?

11 A Yes, it is.

12 Q Now, is it an appropriate interpretation of this
13 material that Pathfinder paid the closing costs?

14 A Yes, it is an appropriate interpretation.

15 Q And why is that?

16 A Excuse me. Let's get back to the process that we
17 talked about just -- all of the bills on -- particularly, at
18 this time. All of the bills were paid out of one operating
19 account, Pathfinder. And then they were charged to the
20 proper radio station. This bill and somewhere I think in
21 our documents, we've got how this was distributed. And
22 this, although it's on a Pathfinder check like I -- I just
23 mentioned to you. It's on -- they're -- all the bills are
24 paid on a Pathfinder check.

25 It's paid to Booth America, and I know for a fact

1 this was charged to WRBR. And they ended up paying the
2 bill, ultimately paying the bill.

3 Q In other words, there's some additional
4 documentation someplace --

5 A Oh, yeah. This is the check. There has to be
6 some -- a request for this check. There has to be something
7 that backs this up. This is just a copy of the check. And
8 there is, in fact, I know -- I recall producing in documents
9 the support for this expenditure.

10 THE COURT: And Hicks paid by check back to you?
11 Gave you a check for the amount of \$696 that you paid on
12 their behalf, \$696? Is that what you are saying?

13 THE WITNESS: Well, not exactly. But it would
14 have been -- it would have been taken out of money that was
15 owed to them in the future. So, in essence, they paid for
16 it. So, they -- in other words, at one -- at a point in
17 time after this, Pathfinder owed them money and it was taken
18 out what they owed.

19 THE COURT: So, you're saying all these payments
20 made in connection with the closing constituted some
21 future --

22 THE WITNESS: A receivable. This very point in
23 time when it was paid, it became a receivable on
24 Pathfinder's books from a short-term receivable from Hicks.
25 And then at some point in time, that receivable was deducted

1 from anything Pathfinder owed Hicks. So, in essence, they
2 paid it.

3 THE COURT: Why would Pathfinder owe Hicks
4 anything?

5 THE WITNESS: Well, in accordance to this Joint
6 Operating Agreement, they -- once -- when the Joint
7 Operating Agreement has a positive net operating balance, we
8 call it -- have been referring to it -- when it has a
9 positive net operating balance, that balance is now -- it's
10 being paid to Hicks in accordance with an amendment to the
11 Joint Sales Agreement that was dated January 1, 1997. It
12 hasn't been --

13 MR. SHOOK: It hasn't gotten to that yet.

14 THE WITNESS: But it calls for that being paid
15 back. For example -- let me give you an example. This
16 month, there's a positive operating balance in the month of
17 September, last month. There's a positive operating balance
18 for the whole Joint Sales Agreement. Hicks is going to get
19 their portion of that, paid in accordance with this
20 amendment. And the amendment calls for it being paid I
21 think -- without the amendment, I can't exactly recall. But
22 I think it's paid on the -- it's on the 60th and 90th day
23 after that because -- well, you're giving time to collect
24 the receivables. But that's what -- that's an explanation
25 of how it would work.

1 So, in -- now, in this particular case, it
2 would --

3 THE COURT: Well, that doesn't explain why
4 Pathfinder would owe them money. What services were
5 rendered on behalf of Pathfinder by Hicks thereby owing
6 money to Hicks?

7 THE WITNESS: Okay. All of the accounts
8 receivable from the Joint -- all of the accounts receivable
9 from the Joint Operating Agreement are on the books at
10 Pathfinder Communications Corporation. And the revenue is
11 split in accordance with the JSA, and then it calls for how
12 that money is to be paid to Hicks.

13 THE COURT: I understand that.

14 THE WITNESS: Okay. So, that's -- so, until it's
15 paid to them, they owe it.

16 THE COURT: So, what you're saying is that,
17 initially, the legal fees and all the rest were all paid by
18 Pathfinder with the understanding that when there was some
19 revenue --

20 THE WITNESS: And there was a positive -- well, it
21 wasn't initially thought that way, but when there was a
22 positive operating balance, they would be used to pay those
23 bills. And it was. They paid them all. I mean, they paid
24 it all off.

25 THE COURT: So, what did it mean? Are you telling

1 me then that, assuming for a monthly revenue; let's take
2 \$10,000 to be paid to Hicks, that Pathfinder would not pay
3 the \$10,000 to Hicks but would use it as part -- pay back
4 down the balance of the monies which were previously given
5 to Hicks or loaned to Hicks?

6 THE WITNESS: Given to them. Because --

7 THE COURT: Is that what you mean would happen?

8 THE WITNESS: I believe -- I think -- I think what
9 you said is correct.

10 THE COURT: Well, I --

11 THE WITNESS: I -- let me try to explain it in --
12 take another shot at it. Every time Pathfinder pays a bill
13 for Hicks Broadcasting, it becomes a receivable from Hicks
14 Broadcasting. Every time they sell a dollar of revenue in
15 the JSA, it becomes -- and it belongs to WRBR, it becomes a
16 liability of Pathfinder's. In other words, he owes it.
17 They owe it. If the JSA sells this revenue and part of that
18 revenue belongs to Hicks, then it becomes a liability of
19 Pathfinder to Hicks.

20 THE COURT: Only to the extent that which Hicks
21 already owes money previously?

22 THE WITNESS: No, because the revenue -- you've
23 got to remember the revenues are split in the Joint Sales
24 Agreement. But at what point does Pathfinder get to collect
25 the debt from Hicks for the monies it advanced to Hicks in

1 connection with the closing?

2 THE WITNESS: Okay. This particular time?

3 THE COURT: Is it still being carried out on the
4 books now?

5 THE WITNESS: No, no.

6 THE COURT: Well, when was it expunged?

7 THE WITNESS: Okay. There was a period of time,
8 and I'd have to go back to the schedule. But there was a
9 period of time that it was carried as a receivable from
10 Hicks, and it was not -- it was not paid or covered by a
11 positive operating balance. I'm not sure when.

12 MR. SHOOK: We'll get to that.

13 THE WITNESS: It was a few months.

14 MR. SHOOK: We'll get to that.

15 THE COURT: Alright. I was confused. I thought
16 Hicks -- where you were sending bills to Hicks --

17 THE WITNESS: No.

18 THE COURT: And Hicks would send you a check for
19 the money, and that was that. Now, you've told me that --

20 THE WITNESS: It created a short-term receivable.

21 THE COURT: Alright. Go ahead. Well, we're at
22 four o'clock unless you want to finish up.

23 MR. SHOOK: No, I can resume with this tomorrow.

24 THE COURT: Okay. We'll resume tomorrow at nine
25 o'clock.

1 (Whereupon, at 4:00 p.m., the hearing was
2 recessed, to reconvene Friday, October 23, 1998, at 9:00
3 a.m.)
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REPORTER'S CERTIFICATE

FCC DOCKET NO.: 98-66
CASE TITLE: In Re: Hicks Broadcasting
HEARING DATE: October 22, 1998
LOCATION: Washington, DC

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: 10/22/98

Henry Phillips
Official Reporter
Heritage Reporting Corporation
1220 "L" Street, N.W.
Washington, D.C. 20005

TRANSCRIBER'S CERTIFICATE

I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

Date: 10/28/98

Nancy McHugh
Official Transcriber
Heritage Reporting Corporation

PROOFREADER'S CERTIFICATE

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: 11/4/98

Bob Moser
Official Proofreader
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